

### REMARKS

This Amendment responds to the final Office Action mailed October 7, 2008 in the above-identified application. The amendments do not raise new issues or require extensive consideration. Accordingly, entry of the Amendment and allowance of the application are respectfully requested.

Claims 23 and 27-36 are currently under consideration. By this Amendment, claim 23 is amended. The amendment finds support in the original application at least in Fig. 1 and page 5, fifth, sixth and ninth paragraphs. No new matter has been added.

The specification has been amended at page 5, fifth paragraph, to explicitly state a feature that is apparent in Fig. 1 and the accompanying description. In particular, Fig. 1 illustrates that hydraulic cylinders 7 and 8 move lever arm 5 up and down periodically with respect to a plane of disk-shaped or plate-shaped production part 4. Accordingly, no new matter is introduced, and entry of the amendment to the specification is respectfully requested.

The Examiner has rejected claims 23 and 27-36 under 35 U.S.C. §103(a) as unpatentable over Fernandez (US 5,865,358) in view of Gold (US 3,086,365). The rejection is respectfully traversed for the following reasons.

Amended claim 23 is directed to a workpiece cracking device, the workpiece being any one of a disk-shaped and a plate-shaped production part having a pre-specified fracture plane, the workpiece cracking device comprising a base, a first pair of jaws immovably mounted on the base, a second pair of jaws movably mounted on the base, a drive moving, in operation, the movably-mounted second pair of jaws periodically up and down with respect to a plane of the disk-shaped or plate-shaped production part, and a control unit with which the frequency and force of the up and down movement of the second pair of jaws can be adjusted.

Fernandez does not teach or suggest a workpiece cracking device comprising a drive moving, in operation, the movably-mounted second pair of jaws *periodically up and down with respect to a plane of the disk-shaped or plate-shaped production part*, as recited in amended claim 23. To the contrary, the breaker machine disclosed in Fernandez is designed to separate a bundle of sheets, such as paperboard, in two, arcuate and progressively severing motions *in the plane* of the workpiece. With reference to Figs. 4B and 4C of Fernandez, members 40A and 44A are moved in the arcuate motion shown by arrow B in Fig. 4B about fixed pivot point X. Then, members 40A

and 44A are moved in the arcuate, progressively severing motion shown by arrow C in Fig. 4C about pivot point Y (col. 5, lines 6-26). Thus, Fernandez discloses two movements in the plane of product portions 30A and 30B, in contrast to periodic up and down movement with respect to a plane of the disk-shaped or plate-shaped production part, as required by amended claim 23.

Fig. 2 of Fernandez shows a method of breaking adjacent product portions of stacked articulated sheets wherein clamps 22A and 22B are deflected downwardly to perform a break between adjacent stacks of product portions (col. 2, lines 33-43). However, nowhere does Fernandez disclose or suggest periodic up and down movement with respect to a plane of a disk-shaped or plate-shaped production part, as claimed.

Gold is cited for disclosing a hydraulic actuation system but contains no disclosure or suggestion of a workpiece cracking device. Accordingly, Gold does not contain the teachings that are lacking in Fernandez.

For at least these reasons, amended claim 23 is clearly and patentably distinguished over Fernandez in view of Gold. Claims 27-36 depend from claim 23 and are patentable over Fernandez in view of Gold for at least the same reasons as claim 23.

Based upon the above discussion, entry of the Amendment and allowance of the application are respectfully requested.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

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